

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:05-cv-477-C**

W. WELLS VAN PELT, JR.,)	
)	
Plaintiff,)	
)	
vs.)	
)	
UBS FINANCIAL SERVICES,,)	
)	
Defendant.)	
)	

MEMORANDUM OPINION

Currently before this Court is Defendant UBS Financial Services, Inc.’s Motion to Stay Enforcement of Judgment and to Fix Amount of Supersedeas Bond. Defendant Van Pelt has not filed any opposition. Following this Court’s order denying UBS’s motion to vacate the arbitration award and granting Van Pelt’s motion to confirm the arbitration award, UBS appealed to the Fourth Circuit Court of Appeals. UBS requests a stay of judgment pending appeal.

Pursuant to Federal Rule of Civil Procedure 62(d), “[w]hen an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.” When a supersedeas bond is posted, the party seeking the stay is entitled to the stay as a matter of right. See Kirby v. Gen. Elec. Co., 210


F.R.D. 192, 195 (W.D.N.C. 2001); see also Fed. Prescription Serv., Inc. v. Am. Pharm. Ass'n, 636 F.2d 755, 759 (D.C. Cir. 1980). Although the court has discretion to order a stay secured by less than a full supersedeas bond, the bond is usually set in an amount that will permit full satisfaction of the judgment together with costs and interest. See 11 Charles Allen Wright & Arthur R. Miller, Federal Practice & Procedure § 2905 at 522 (2d ed. 1995). This Court sets the supersedeas bond in the amount of \$2,879,979.70.

Accordingly, UBS's Motion to Stay Enforcement of Judgment and to Fix Amount of Supersedeas Bond is granted. UBS shall post a supersedeas bond in the amount of \$2,879,979.70 with the Clerk of the Court. Pursuant to Fed.R.Civ.P. Rule 62(d) and Fed.R.App. Rule 8, this action will be stayed upon the posting of such bond with this Court. It will be so ordered.

IT IS, THEREFORE, ORDERED:

1. That Defendant UBS Financial Services, Inc.'s Motion to Stay Enforcement of Judgment and to Fix Amount of Supersedeas Bond is **GRANTED**;
2. That Defendant UBS Financial Services, Inc. post a supersedeas bond of \$ 2,879,979.70 with the Clerk of the Court pending appeal of this action;
3. That this action be **STAYED** upon the posting of the supersedeas bond by Defendant UBS Financial Services, Inc..

Signed: October 29, 2007


Robert J. Conrad, Jr.
Chief United States District Judge

